

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

**DESJARLAIS *et al.***

Serial No. 10/611,399

Filed: July 1, 2003

For: ***Dominant Negative Proteins And  
Methods Thereof***

Examiner: EMCH, Gregory S.

Art Unit: 1649 Conf. No.: 1891

CERTIFICATE OF ELECTRONIC TRANSMISSION  
UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence, including listed enclosures, is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office on:

Dated: May 29, 2007

Signed: Jennifer C. Black  
Jennifer C. Black

TERMINAL DISCLAIMER TO  
OBVIATE A DOUBLE PATENTING REJECTION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Petitioner, **Xencor, Inc.** (hereinafter "Xencor"), represents that it is the assignee of the entire right, title, and interest of:

1. The instant application, U.S. Serial No. 10/611,399, filed July 1, 2003, pending; which is a continuation-in-part of U.S. Serial No. 10/338,083, filed January 6, 2003, pending; and
2. U.S. Serial No. 11/008,091 filed December 8, 2004, pending, which is a continuation-in-part of U.S. Serial No. 10/338,083 filed January 6, 2003, pending; and
3. U.S. Serial No. 10/963,994, filed October 12, 2004, pending, which is a continuation-in-part of U.S. Serial No. 10/262,630, filed September 30, 2002, pending, which is a continuation-in-part of U.S. Serial No. 09/981,289, filed October 15, 2001, now U.S. Patent No. 7,101,974 which is a continuation-in-part of U.S. Serial No. 09/945,150 filed August 31, 2001, abandoned, which is a continuation-in-part of U.S. Serial No. 09/798,789, filed March 2, 2001, now U.S. Patent No. 7,056,695.

Serial No.: 10/611,399  
Filed: July 1, 2003

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 10/338,083 filed January 6, 2003, pending, at Reel No. 018853, Frame No. 0933, on February 5, 2007.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 11/008,091 filed December 8, 2004, pending, at Reel No. 016671, Frame No. 0488, on June 9, 2005.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 10/963,994, filed October 12, 2004, pending, at Reel No. 016497, Frame No. 0656, on April 27, 2005.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 10/262,630 filed September 30, 2002, pending, at Reel No. 013690, Frame No. 0042, on January 27, 2003.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 09/981,289, filed October 15, 2001, now U.S. Patent No. 7,101,974, at Reel No. 012556, Frame No. 0162, on January 29, 2002.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 09/798,789 filed March 2, 2001, now U.S. Patent No. 7,056,695, at Reel No. 011902, Frame No. 0221, on June 18, 2001.

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Serial No. 10/338,083, filed January 6, 2003; and

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Serial No. 11/008,091 filed December 8, 2004; and

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Serial No. 10/963,994, filed October 12, 2004; and

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Serial No. 09/981,289, filed October 15, 2001, now U.S. Patent No. 7,101,974.

Xencor hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Xencor does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 U.S. Serial No. 10/338,083, filed January 6, 2003; U.S. Serial No. 11/008,091 filed December 8, 2004; U.S. Serial No. 10/963,994, filed October 12, 2004; and U.S. Serial No. 09/981,289, filed October 15, 2001, now U.S. Patent No. 7,101,974, as shortened by any terminal disclaimer, in the event that the patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

Serial No.: 10/611,399  
Filed: July 1, 2003

The undersigned is empowered to act on behalf of the petitioner/assignee. The undersigned has reviewed the evidentiary documents in the chain of title of the present application identified above, and certifies that, to the best of assignee's knowledge and belief, title is in the assignee Xencor.

Also included herewith is the terminal disclaimer fee of \$65.00 under 37 C.F.R. 1.20(d). While Applicants believe that no other fees are due at this time, the Commissioner is authorized to charge any fees, including extension fees or any other relief that may be required, in connection with this reply to Deposit Account 50-0310 (Docket No.: 67461-5097US01).

The undersigned is an attorney or agent of record.

MORGAN, LEWIS & BOCKIUS LLP

Dated: May 29, 2007

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*Filed Under 37 C.F.R. 1.34*